

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) STATION 27, INC.,)
)
)
Plaintiff,)
)
v.) **Case No. CIV-14-1238-F**
)
)
(1) EMPLOYERS MUTUAL CASUALTY) **Removed from Oklahoma**
COMPANY; and) **County District Court**
(2) ENGLE MARTIN & ASSOCIATES,) **Case No. CJ-2014-2890**
INC.,)
)
Defendants.)

NOTICE OF REMOVAL

s/Phil R. Richards

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ATTORNEYS FOR DEFENDANTS
EMPLOYERS MUTUAL CASUALTY
COMPANY AND ENGLE MARTIN &
ASSOCIATES, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) STATION 27, INC.,)	
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Plaintiff,)	
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v.)	Case No.
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(1) EMPLOYERS MUTUAL CASUALTY)	Removed from Oklahoma
COMPANY,)	County District Court
)	Case No. CJ-2014-2890
)	
Defendant.)	

NOTICE OF REMOVAL

COMES NOW Defendant Employers Mutual Casualty Company (“EMC”), pursuant to 28 U.S.C. § 1441, and files this Notice of Removal of the above-styled action from the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma. For its grounds for removal, EMC states the following:

1. Plaintiff Station 27 initiated this action by filing a Petition in the District Court of Oklahoma County on May 19, 2014, against EMC and additional defendants Ed Berrong Insurance Agency, Inc., Engle Martin & Associates, Inc., and David Paul Hauer, II. (Exhibit 1, Petition).
2. Plaintiff filed an Amended Petition on October 17, 2014. (Exhibit 2, Amended Petition).
3. On November 6, 2014, Plaintiff dismissed all defendants except EMC. (Exhibit 3, Dismissal Without Prejudice).

4. A copy of the Summons and Petition were served on EMC on November 9, 2014. (Exhibit 4, Summons).

5. In accordance with 28 U.S.C. § 1446(a) and LCvR 81.2, copies of all process, pleadings, and orders filed in this case, as well as a copy of the Oklahoma County District Court docket sheet (Exhibit 5) are attached to this Notice.

6. Plaintiff is incorporated under the laws of the State of Oklahoma, with its principal place of business in Moore, Oklahoma. (Exhibit 6, Entity Summary Information from Oklahoma Secretary of State website; Exhibit 7, Policy Declarations, pp 1 & 7).

7. EMC is an insurance company, incorporated under the laws of the State of Iowa, with its principal place of business in Iowa. (Exhibit 1 at ¶ 2, Exhibit 8, Oklahoma Insurance Department 2013 Annual Report at p. 47).

8. Plaintiff and EMC are therefore citizens of different states, and hence diverse.

9. Although Plaintiff's petition states that it seeks damages in excess of \$10,000 (Exhibit 1, Prayer for Relief (c)), Plaintiff sent a demand letter to EMC demanding more than \$75,000 in damages, exclusive of interest and costs. (Exhibit 9, Demand Letter).

10. Under 28 U.S.C. § 1446(b)(3), a notice of removal may be filed within 30 days after receipt by the defendant of an "other paper" from which it may first be ascertained that the case is one which is or has become removable. A demand letter may be considered an "other paper" for purposes of § 1446(b), *see, for example, Archer v. Kelly*, 271 F.Supp.2d 1320, 1324 (N.D. Okla. 2003). The 30-day removal period begins from the date the defendant receives the initial pleading, when the defendant has actual

knowledge on that date that the amount in controversy exceeds the required jurisdictional amount. *Id.* EMC is filing this notice of removal within 30 days of service of Plaintiff's petition and, based upon the amount of Plaintiff's demand letter, the amount in controversy exceeds \$75,000, exclusive of costs and interest, as required by 28 U.S.C. §1332(a).

11. Thus, pursuant to 28 U.S.C. § 1332(a)(1), this Court has jurisdiction because of the complete diversity of citizenship of the parties and a sufficient amount in controversy.

WHEREFORE, Defendant Employers Mutual Casualty Company requests this Notice of Removal by accepted by this Court, and that this lawsuit proceed as an action properly removed to this Court's jurisdiction.

Respectfully submitted,

s/ Phil R. Richards

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ATTORNEYS FOR DEFENDANT
EMPLOYERS MUTUAL CASUALTY
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of November, 2014, I electronically transmitted this Notice of Removal to the Clerk of the Court using the ECF System for filing. Additionally, pursuant to 28 U.S.C. § 1446(d), true and correct copies of the Notice of removal were delivered to:

Jay Drew Houghton, Esq.
Foshee & Yaffe
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**ATTORNEYS FOR PLAINTIFF
STATION 27, INC.**

Oklahoma County Court Clerk
409 County Office Bldg.
320 Robert S. Kerr Ave.
Oklahoma City, OK 73102-3604

/s/ Phil R. Richards
Phil R. Richards